

Discharge as one of debt-eliminating modes of solving bankruptcy

Abstract

The aim of this thesis is to define the new law institute as regards insolvency law that is defined in the Act No. 182/2006 Coll., on Bankruptcy and its solution (Insolvency Law). The act came into force on 1.st January 2008. The purpose of this thesis is also to describe the practice of courts when applying afore mentioned law and specify some difficulties concerning new legislation.

Discharge from debts is one of the remediation methods to resolve the debtor's bankruptcy. The idea is to allow the debtors to exempt from the payment of their debts and start new life free of debt. Discharge from debts is a tool for solving the so-called consumer bankruptcy people who are not entrepreneurs. The part of the thesis deals with the personal scope of discharge.

Furthermore, it is up to the court to decide whether it discharges debtors from their debts. The basic premise is the honest intention of the debtor. Another assumption is the fact that the debtor will satisfy at least 30 percent of the claims of unsecured creditors.

Discharge from the debts can be secured in two ways. The first way is to liquidate the debtor's estate and the second, is to fulfill monthly payments in five years, the second solution is often preferred by the unsecured debtors. Therefore, unsecured creditors can influence the insolvency proceedings. In this context, I discussed the possibility combination of these methods as well as the status of the secured creditors regarding the discharge from debts.

After fulfilling all obligations by the debtor the court may decide to exempt debtor from paying debts. On the contrary, the court may terminate the proceedings for the infringement of essential obligations of the debtor and may decide that the way to resolve the bankruptcy will be bankrupt. Moreover, in case of exemption from payment of the debts the debtor is under the supervision for three years. During this period the court may revoke the exemption from payment of the debts for the statutory reasons.

To sum up, when elaborating this topic, I proceed from the existing legislation, the relevant court decisions and literature. I consider the key issues in accordance with the fundamental principles of insolvency procedure and the goals of new legislation.